

² The Board notes that, following the May 28, 2021 OWCP decision, appellant submitted additional evidence to the Board. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On April 19, 2021 appellant, then a 52-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he developed plantar fasciitis due to factors of his federal employment, including wearing ice grippers on his feet to deliver mail during two to three weeks of icy conditions. He reported worsening pain and soreness in the sole of his right foot, near his heel, which persisted even after he stopped wearing the ice grippers. Appellant reported that he first became aware of his condition and its relation to his federal employment on February 18, 2021. He explained that he delayed filing his claim because he hoped the pain would go away after he stopped wearing the ice grippers. On the reverse side of the claim form, appellant's supervisor indicated that appellant first reported his condition on March 31, 2021 and was last exposed to the conditions alleged to have caused his condition on April 1, 2021.

In support of his claim, appellant submitted a duty status report (Form CA-17) dated March 30, 2021, bearing an illegible signature. The provider diagnosed plantar fasciitis and recommended work restrictions limiting appellant's standing, walking, climbing, kneeling, bending, stooping, twisting, pulling, and pushing.

In a development letter dated April 27, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

Appellant subsequently submitted an April 26, 2021 medical report from Dr. Steven Fish, a Board-certified orthopedic surgeon, relating appellant's history of injury and treatment. Dr. Fish noted that appellant had been having difficulties with his right heel since February 18, 2021 as a result of walking on ice with ice scrapers on his shoes. His examination revealed-moderate bilateral pes planus, fullness along the medial aspect of the right plantar heel, tenderness along the plantar aspect of the heel at the insertion of the plantar fascia, and occasional pain radiating distally along the plantar fascia. Dr. Fish reviewed previous x-rays, which revealed-moderate mid-foot arthritis and some degree of pes planus. He diagnosed plantar fascial fibromatosis and bilateral pes planus and opined that the right plantar fasciitis was work related, stating that appellant "does have some preexisting plantar fasciitis, which might predispose him to this, but this started while [appellant] was at work." Dr. Fish prescribed custom orthotics, recommended physical therapy, and advised that appellant should be off work for one week to rest before returning with restrictions. In a disability certificate of even date, he advised that appellant was 100 percent disabled from work from April 27 through May 4, 2021, after which he could return to work with restrictions. In a Form CA-17 of even date, Dr. Fish related appellant's history of injury and diagnosed plantar fasciitis. He advised that appellant could return to work on May 4, 2021 with restrictions.

On May 12, 2021 appellant responded to OWCP's development questionnaire, relating that he had worked as a full-time mail carrier for 15 years, walking 8 to 10 miles each day, and that he believed that walking on icy sidewalks using ice grippers caused his claimed condition. He explained that it was icy for two to three weeks and he wore his ice grippers while delivering mail during most of that time. Appellant began to feel pain while working on or around

February 18, 2021. The pain was constant, but fluctuated in severity, worsening with walking and improving with daily foot soaks and ice. Appellant clarified that he did not stop working on April 1, 2021. He indicated that he did not have any exposure that could have caused the condition outside of his federal employment and had no other conditions affecting his foot.

In a May 14, 2021 letter, an employing establishment human resource management (HRM) specialist, noted that appellant did not stop working on March 30, 2021, but rather was working with restrictions. The HRM specialist reported that appellant was out of work from April 27 through May 4, 2021 and returned to work on May 5, 2021 with restrictions.

Appellant submitted an additional statement, dated May 23, 2021, providing further information about his employment duties, including walking 5 to 7 hours each day delivering mail and parcels, totaling over 20,000 miles during his roughly 15 years of federal employment. He explained that the employing establishment authorized and issued “ice grippers,” adaptive wear worn over boots with screws on the bottom to provide traction and minimize slips and falls on icy sidewalks. Appellant described how, during the two to three weeks of icy conditions, each time he stepped out of his truck on the right side, his right foot/heel was the first thing that touched the ground in order to secure good traction with the ice grippers while dismounting. He opined that “[a]s the screws hit the ice and get traction, some reverse energy or force, I’m sure will go to your feet and body.” Appellant’s pain began in the bottom of his right foot while wearing the ice grippers and gradually worsened over time as he walked. On March 30, 2021 the pain was so severe that he could not finish work and he sought treatment at an urgent care facility. The pain did not improve when appellant stopped wearing the ice grippers. In the last five years, he had not participated in any strenuous activities outside of his work, only household chores.

By decision dated May 28, 2021, OWCP denied appellant’s occupational disease claim, finding that the evidence of record was insufficient to establish that his medical condition was causally related to the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).⁹

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish right plantar fasciitis causally related to the accepted factors of his federal employment.

In his April 26, 2021 report, Dr. Fish noted that appellant began to experience plantar heel pain as a result of walking on ice with ice scrapers on his shoes. He diagnosed plantar fascial fibromatosis and opined that the right plantar fasciitis was work related, stating that appellant "does have some preexisting plantar fasciitis, which might predispose [appellant] to this, but this started while [appellant] was at work." While Dr. Fish provided an affirmative opinion suggestive of causal relationship, he did not offer medical rationale sufficient to explain how appellant's employment duties resulted in or contributed to his diagnosed condition. Without explaining how

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁹ *Id.*; *Victor J. Woodhams*, *supra* note 6.

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *D.W.*, Docket No. 20-0674 (issued September 29, 2020); *V.W.*, Docket No. 19-1537 (issued May 13, 2020); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

appellant's employment duties caused or aggravated his condition, Dr. Fish's report is of limited probative value and is insufficient to meet appellant's burden of proof.¹¹

In a Form CA-17 dated April 26, 2021, Dr. Fish diagnosed plantar fasciitis and described appellant's work restrictions. Similarly, in a disability certificate of even date, he described appellant's disability status. However, neither the Form CA-17, nor the disability certificate offered an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹² For these reasons, Dr. Fish's remaining evidence is insufficient to meet appellant's burden of proof.

Appellant submitted a Form CA-17, dated March 30, 2021, bearing an illegible signature. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.¹³ Therefore, this report is also of no probative value and is insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing that his right plantar fasciitis is causally related to the accepted factors of his federal employment, the Board finds that he has not met his burden of proof to establish his claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish right plantar fasciitis causally related to the accepted factors of his federal employment.

¹¹ See *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹² *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the May 28, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 15, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board